



OFFICE OF THE
BOARD OF APPEALS
TOWN OF DUNSTABLE
TOWN HALL, 511 MAIN STREET
DUNSTABLE, MA 01827-1313
(978) 649-4514 FAX (978) 649-4371
zoning-appealsboard@dunstable-ma.gov

NOTICE OF DECISION - VARIANCE

Date: November 13, 2012

Petition: 12-04

Notice is hereby given that a variance has been granted to James Childs to construct a new garage closer to the street than the principal building by the Dunstable Zoning Board of Appeals, affecting the rights of the owner with respect to the use of premises on 327 Forest Street, Dunstable, MA shown on Assessor's Map 22, Lot 15-1, the record title standing in the name of James Childs whose address is 327 Forest Street, Dunstable, MA by a deed duly recorded in the North Middlesex Registry of Deeds in Book 2623, Page 314.

The decision of said board is on file with the papers on this matter in the office of the Town clerk. Certified this day of November 14 2012.

Chairperson, Zoning Board of Appeals

Clerk, Zoning Board of Appeals

An appeal from the decision of the Zoning Board of Appeals may be made by any person aggrieved pursuant to MGL Chapter 40A, section 17, as amended, within twenty (20) days after the date of filing of a notice of decision in the office of the Town Clerk.

I certify no appeal has been received within 20 days of the filing of this notice in my office, or that if an appeal has been filed, that it has been dismissed or denied.

Town Clerk

Date: _____

Having received the certification from the Town Clerk, it shall be the responsibility of the **applicant** to have recorded the decision at the Registry of Deeds for the North Middlesex District and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant.



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**RECORD OF PROCEEDINGS
ON APPLICATION FOR A VARIANCE**

I, John Martin, Clerk of the Zoning Board of Appeals, hereby certify that the following is a detailed record of all its proceedings relative to the application of James Childs, 327 Forest Street, Dunstable, MA 01827.

The applicant was seeking a variance from the provision of Dunstable Zoning By-laws, section 11.5.

The property is located on 327 Forest Street, Dunstable, MA. The property is known as lot 15-1, reference Assessors Map No. 22, Registry of Deeds Book No. 2623, Page No. 314, and is in the R1 district. The request is made pursuant to section 11.5 of the Dunstable Zoning By-laws.

1. On September 4, 2012 an application of which a true copy marked "A" is made a part of this record, was filed with the Town Clerk and presented to the Zoning Board of Appeals on September 4, 2012.
2. Thereupon, an advertisement, a true copy of which marked "B" is made a part of this record, was published in the Lowell Sun, a newspaper published in Lowell, MA on Thursday, September 27, 2012 and on Thursday, October 4, 2012.
3. Notices of the hearing, a copy of which marked "C" is made a part of this record, were mailed postpaid to the petitioner and parties in interest as specified in Section 11, Chapter 40A as amended.
4. On Thursday, October 11, 2012 at 7:30 p.m. a hearing was held and additional sessions, duly continued, were held on November 1, 2012 at the Dunstable Town Hall at which opportunity was given to all those interested to be heard in favor or in opposition to said application.
5. The public hearing was closed on November 1, 2012.

Members Present: Ted Gaudette, Acting Chairperson
John Martin, Clerk
Leo Tometich, Chairperson
Judy Thompson, Associate Member
Lisa O'Connell, Acting Secretary and Member

Members Absent: Josh West, Member
Al Horton, Associate Member
Gerald Mead, Associate Member

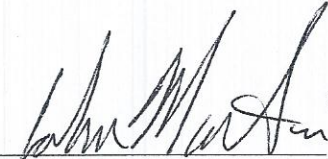
6. The Zoning Board of Appeals found the following findings of fact regarding the land in question and the proposed use:
 - a) The petitioner, James Childs is the property owner of 327 Forest Street, Dunstable, MA
 - b) The petitioner would like to construct a detached 3-4 car garage on the left side of, and closer to the street than the principle residence.
 - c) The principle residence is approximately 550 feet from the street line.
 - d) The board members have reviewed the site plan and photographs provided by the petitioner.
 - e) The property is hammerhead or pork chop shaped.
 - f) To place the garage in a location in compliance with the Dunstable Zoning by-laws would require removal of 40 to 60 pine trees and over 100 saplings, the construction of a 100 foot retaining wall, 200 tons of gravel fill and a 400 foot trench for conduit from the house.
 - g) The cost difference between building the garage in the by-law compliant location and the location requested in the petition would be between \$45,000 and \$55, 000.
 - h) In the new location, the garage would be visible to one abutter, otherwise it would be visible from the street and too all the abutters.
 - i) Two of the petitioner's abutters submitted letters for the record in support of the variance and one abutter attended the hearing in support of the petition.
7. The Zoning Board of Appeals reached the following conclusions of law:
 - a) Section 10 of Chapter 40A of the MGL states..."*that owing to circumstances relating to the soil conditions, shape, or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*"
 - b) The board found it could grant the variance due to the financial hardship created by the shape and topography of the land and is not more detrimental to the neighborhood, nor would it substantially derogate from the intent of the purpose of the by-law.
8. The Board voted at its meeting on November 1, 2012 as detailed below, to grant the application subject to the following conditions, safeguards and limitations on time or use:
 - a) The applicant must file this decision with the registry of deeds and provide proof thereof to the Town Clerk of Dunstable.

- b) All required permits, licenses, and other necessary requirements by any and all Federal, State or Local governments, or agencies thereof, be obtained and fully complied with.
- c) Appeal of this decision, if any shall be pursuant to MGL, Chapter 40 (A), Section 17, as amended and shall be filed within twenty (20) days after filing of this notice of decision with the Town Clerk of the Town of Dunstable.

John Martin motioned to vote to grant or deny the variance requested in the petition. Leo Tometich seconded the motion. The roll was called:

Judy Thompson – to grant
Leo Tometich – to grant
Ted Gaudette – to grant
John Martin – to grant
Lisa O’Connell – to grant

The motioned passed to grant the variance to the petitioner due to the financial hardship incurred by the land and that it would be less detrimental to the neighborhood.

Signature 
John Martin, Clerk
Dunstable Zoning Board of Appeals

Date: 11-14-12

Revised 6/10/08